

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 IO-13 ISO-00 AID-05 CIAE-00 COME-00

EB-07 FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02

OPIC-03 SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 NSC-05

SS-15 STR-04 CEA-01 AF-08 ARA-06 EA-07 NEA-10 /127 W

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TO SECSTATE WASHDC 8730

INFO USMISSION GENEVA

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C O N F I D E N T I A L USUN 3303

FOR BOEKER (EB), FELDMAN (L), MOREY (IO)

E.O. 11652: GDS

TAGS: EGEN, EINV

SUBJECT: AD HOC WORKING GROUP ON ILLICIT PAYMENTS

REF: (A) GENEVA 6347, (B) GENEVA 6360, (C) STATE 196622

SUMMARY: MISSION RECOMMENDS THAT EFFORTS GET UNDERWAY PROMPTLY TO DEAL WITH THE ISSUE OF THE SIZE AND COMPOSITION OF THE AD HOC WORKING GROUP ON ILLICIT PAYMENTS AND TO PREPARE BACKGROUND MATERIAL FOR THE FIRST MEETING (OCTOBER 11-15) TO SUPPORT OUR AIM OF AN INTERNATIONAL AGREEMENT IN THIS AREA. END SUMMARY

1. AS INDICATED IN REFTEL (B), OUR SUCCESS IN OBTAINING THE MANDATE FOR A WORKING GROUP TO SEEK AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS WAS IN GOOD MEASURE THE RESULT OF EXCELLENT BACKSTOPPING IN WASHINGTON AND INTENSIVE LOBBYING IN CAPITALS. FROM OUR PERSPECTIVE, IT IS ESSENTIAL THAT THE MOMENTUM BE MAINTAINED IF THE WORKING GROUP IS TO BE SUCCESSFUL OVER TIME. WITHOUT CONTINUING STRONG USG LEADERSHIP, THE WHOLE EXERCISE
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COULD EASILY BOG DOWN AND HAVE LITTLE OR NOTHING TO SHOW BY

NEXT SUMMER. AS THE DEPARTMENT IS AWARE, EVEN THOUGH THE RESOLUTION WAS APPROVED WITHOUT VOTE, MANY KEY COUNTRIES STILL HAVE SERIOUS RESERVATIONS ABOUT THIS PROJECT--AND ABOUT OUR MOTIVE IN PURSUING IT. THE GREATEST DANGERS WE SEE IS THAT THE WORKING GROUP MAY SIMPLY CONFINE ITSELF TO THE FIRST PART OF ITS MANDATE ("TO CONDUCT AND EXAMINATION OF CORRUPT PRACTICES, INCLUDING BRIBERY") AND, IN THE PROCESS, THEY LAUNCH ATTACK ON MULTI-NATIONALS FOR ESSENTIALLY POLITICAL PURPOSES.

2. THE FIRST PRIORITY WE NEED TO ADDRESS IS THE COMPOSITION OF THE WORKING GROUP ITSELF. REFTEL (A) OUTLINED THE PROBLEM OF SETTING THE SIZE OF THE GROUP AND THE CRITICAL ROLE OF THE EC-9 IN THIS PROCESS (I.E., WHETHER THE COMMUNITY WILL HAVE A SINGLE SPOKESMAN). TIME IS AN IMPORTANT CONSIDERATION SINCE THE RESUMED 61ST ECOSOC SHOULD MEET SHORTLY AFTER THE OPENING OF THE 31ST GENERAL ASSEMBLY (SEPTEMBER 21) TO SELECT THE WORKING GROUP. THIS WILL BE NECESSARY IF THE GROUP IS TO MEET AS SCHEDULED ON OCTOBER 11-15. WHILE THE FINAL DECISIONS WILL PROBABLY BE MADE DURING CONSULTATIONS IN NEW YORK DURING THE EARLY DAYS OF THE GA, WE BELIEVE IT WOULD BE USEFUL TO BEGIN CONSULTATION WITH WESTERN GOVERNMENTS AS SOON AS POSSIBLE IN ORDER TO PREPARE THE WAY FOR SELECTIONS AT NEW YORK.

3. IN ADDITION TO THE SIZE OF THE WORKING GROUP, IT IS IMPORTANT THAT ITS PERSONNEL BE OF SUFFICIENT EXPERTISE AND POLITICAL CLOUT TO ENABLE THE GROUP TO WORK EFFECTIVELY. WE ASSUME THAT THE DEPARTMENT IS THINKING ABOUT THE USG CANDIDATE. WE WOULD SUGGEST THAT THIS ISSUE ALSO BE RAISED IN INTERESTED CAPITALS (E.G. WEO'S IRAN, PAKISTAN, BRAZIL) EITHER IN THE COURSE OF THE CONSULTATIONS ON THE GROUP'S SIZE OR IMMEDIATELY AFTER THE SELECTION OF THE MEMBER STATES THAT WILL COMPROMISE THE GROUP.

4. FINALLY, WE BELIEVE THAT IT IS IMPORTANT TO MAKE AVAILABLE TO THE WORKING GROUP AT ITS FIRST MEETING SUBSTANTIAL AND DETAILED BACKGROUND INFORMATION TO SUPPORT OUR UNDERLYING THESIS THAT THE INTERNATIONAL COMMUNITY CAN AND SHOULD TAKE IMMEDIATE ACTION ON ILLICIT PAYMENTS--AND THAT AN INTERNATIONAL AGREE-CONFIDENTIAL

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MENT IS THE BEST WAY TO DO THIS. AS THE DEPARTMENT IS AWARE, MANY COUNTRIES QUESTION THIS PROPOSITION AND INSISTED IN ECOSOC THAT THE STUDY PHASE BE INCLUDED IN THE MANDATE OF THE WORKING GROUP. IN OUR VIEW, THE BEST CHANCE WE HAVE TO GET THROUGH THIS PHASE EXPEDITIOUSLY IS TO CONFRONT THE QUESTION DIRECTLY WITH CONVINCING EVIDENCE, AND TO TRY TO RESTRAIN THE WORKING GROUP FROM MOVING IN THE DIRECTION OF GENERAL (AND TIME CONSUMING) STUDIES OF CORRUPT PRACTICES.

5. AS THE EXERCISE MOVES AHEAD, WE BELIEVE THAT THE USG WILL HAVE TO TAKE THE INITIATIVE IN PRESENTING AND WINNING SUPPORT FOR SPECIFIC PROVISIONS OF AN INTERNATIONAL AGREEMENT. WHILE THE FORMAL PRESENTATION OF SUCH PROPOSALS IS SOME TIME OFF, THE SOONER WE DEVELOP A CLEAR PICTURE OF WHAT WE WANT OUT OF THIS EXERCISE AND CAN BEGIN TO DISCUSS IT IN SPECIFICS WITH OTHER MEMBERS OF THE WORKING GROUP, THE MORE LIKELY IT IS THAT OUR IDEAS WILL PREVAIL IN THE FINAL REPORT.

6. WE SHOULD ALSO BE MINDFUL THAT SOME DELEGATIONS BELIEVE THAT OUR INITIATIVE ON ILLICIT PAYMENTS IS A RUSE TO DOWN-GRAD THE IMPORTANCE OF A CODE OF CONDUCT. THEY MAY THEREFORE SEEK DE FACTO TO LINK OR SYNCHRONIZE PROGRESS ON THE CONVENTION WITH MOVEMENT WITH RESPECT TO THE CODE. WE SHALL THEREFORE NEED A LARGE MEASURE OF COORDINATION BETWEEN THE TWO NEGOTIATIONS IF THEY ARE TO PROCEED HARMONIOUSLY AND EXPEDITIOUSLY.

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